

# Curing Our Own Ills: A Pro-Active Stance on **Health & Safety**

By Lee Schaller

Despite having to wade through the traditional red tape and encountering an ambition-driven roadblock or two, the industry is responding to its health and safety challenges with an increasingly strong pro-active stance. From the still unsettled problems of the state's workers' compensation program to concerns about drug use and the need for a properly trained labor force, industry members are taking many matters into their own hands.

How is this impacting day-to-day performance? Who is offering support? What lies ahead? The feedback for this report ranges from pragmatic to passionate. No one was "resigned to the situation" or willing to accept the status quo. What are they (and you) doing? Read on.

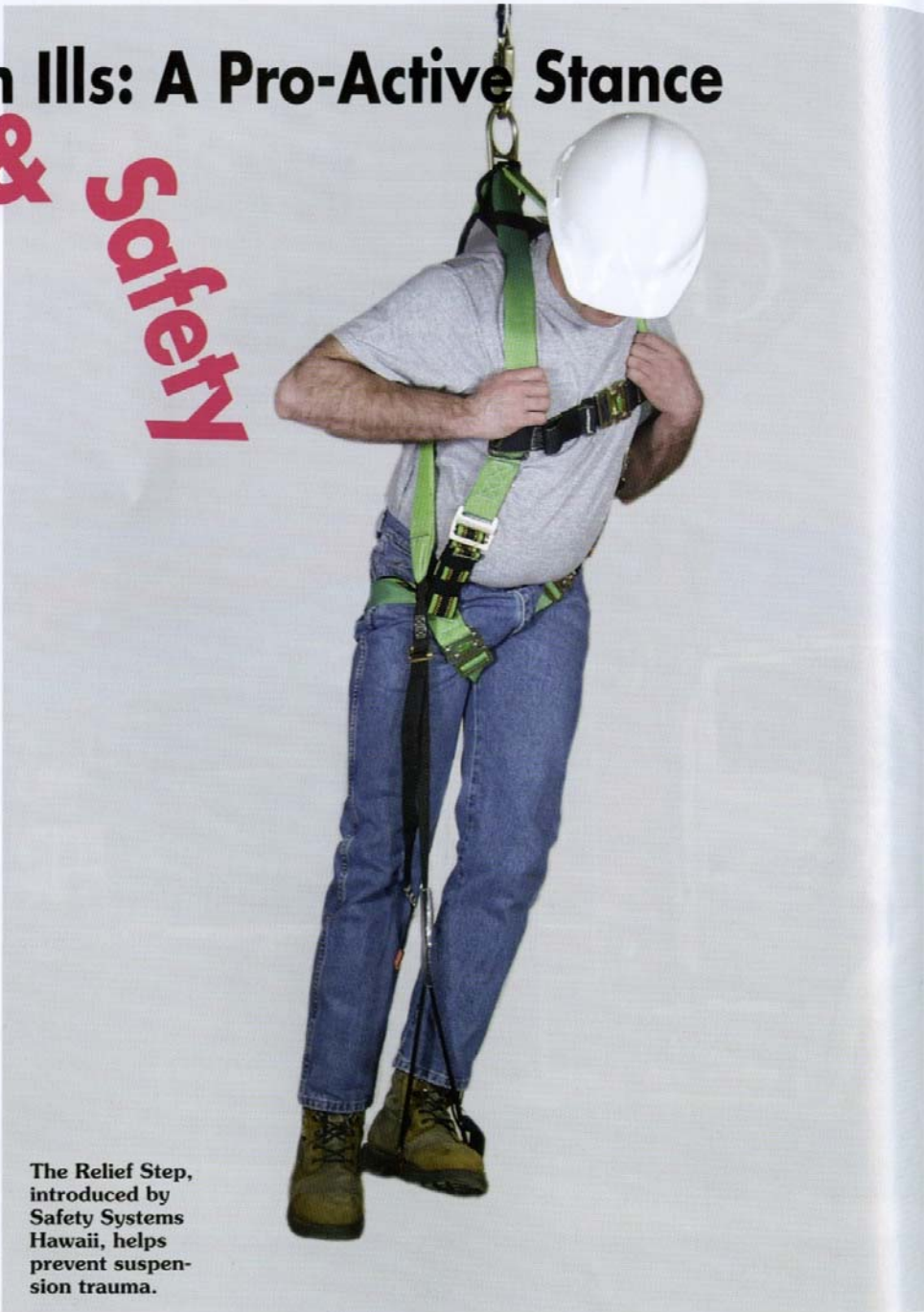
## With a Little Help From Our Friends

Last year at this time, Nelson Befitel, director of the Hawaii Department of Labor and Industrial Relations (DLIR), with support from the governor, was working to get administrative rule changes into effect that, he felt, would help mend Hawaii's "broken" workers' compensation system. The rule changes were viewed as a means to streamlining the system, with the potential to save local businesses from \$91 million to more than \$108 million a year. It didn't happen. The state Legislature instead voted to strip Befitel of

any authority to change the administrative rules — a move that Gov. Linda Lingle vetoed, placing the rule changes into effect last May; but two months later, in July, the Legislature overrode the governor's veto.

"Our goal in addressing this problem over the past two years," says Befitel, "is to get our injured workers the best treatment possible so they can return to work sooner. Our Hawaii workers are not returning to work as quickly as workers in the rest of the country. There is over-utilization of the

medical system here," Befitel says, due to what is viewed as "an inefficient system that invites abuse." James Hardway, special assistant to the DLIR director, says, "We are still advocating for changes. Even though we've been handcuffed, we are advocating that employers, employees, insurers and medical groups adopt insurance-based premium guidelines." Hardway adds that an independent group of Hawaii physicians who do not normally handle workers' comp cases, is "looking at creating a



The Relief Step, introduced by Safety Systems Hawaii, helps prevent suspension trauma.



Ronald Kienitz, D.O., medical director of Concentra Medical Clinics in Hawaii, examines a patient with a work-related injury.

network" so that they can refer patients who come to them to a physician within the network who is best able to meet their needs.

Befitel also speaks positively, despite last year's legislative setback. "We've moved on. For example, we are implementing measures for faster dispute hearings. We've brought in members of the National Judicial College based in Nevada to train our workers' comp hearing officials to expedite procedures so that once filed, a

hearing on a dispute is guaranteed within 80 days, down from (the previous) six months. Faster hearings lead to lower costs."

Hardway reports that the DLIR currently is promoting two legislative bills; one dealing with a medical provider network which would allow the employer to select a network, and the second, a bill that would reinstate the DLIR director's power to initiate administrative rule changes.

## Facts and Figures

"The Hawaii workers' compensation system has a number of stumbling blocks similar to boulders in a stream where each boulder affects the ebb and flow of the stream," says Sharon Ohata, vice president, claims consulting/client consulting group, Atlas Insurance Agency. "Like boulders, workers' compensation costs drivers impact the ebb and flow of our workers' compensation system." She points out published numbers that underscore what Befitel and Hardway tell us. "In June 2005, the National Council on Compensation Insurance (NCCI), a not-for-profit agency that studies workers' compensation insurance trends, reported that the number of claims for lost time work injuries in Hawaii was 2,612 workers per 100,000, which is twice the national average of 1,293 workers for 100,000. The NCCI also reported that more than half (53.1 percent) of all injured workers in Hawaii are out for extended periods and require treatment beyond just seeing a doctor. Nationally, 77.5 percent of all workers injured on the job seek medical treatment and return to work fairly quickly. The NCCI found that Hawaii has 35 percent more permanent partial disability claims that cost employers 28 percent more than the national average. The NCCI and Hawaii DLIR identify as cost drivers impacting our workers' compensation costs (such items as) extended medical care, extended lost time days, frequency and extent of permanent disability awards/settlements, plus strain/sprain type injuries and back pain type injuries." Ohata explains that increased workers' comp cost translates into a higher "experience modification factor," which in turn, affects the employer's workers' comp premium. "Solutions to manage these cost-drivers are varied," she says, "and may be as simple as improving the communication process to legislative changes."



Steve Stout, a loss prevention consultant with HEMIC, performs a site inspection.

"The situation is getting out of control," says Archie Yu, MS, CIH, MBA, CSP, of Compliance Solution LLC. "We have not come across a single employer who thinks otherwise. We have seen some employees file some very unusual claims."

"The goal of the industry," says Bill Short, government rela-

tions committee chair for the BIA (Building Industry Association of Hawaii), "is to support the people who work in it with good health programs and benefits. That's very expensive right now. It is hoped that these expenses might be looked at so that employees can receive excellent care while costs for employers are reduced."

## A Finger on the Pulse

What does the medical community have to say about the current workers' comp picture?

Ronald Keinitz, D.O., medical director of Concentra Medical Centers in Hawaii, clearly is angry about a proposed legislative bill, HB2694. "HMA opposes this bill," he says. "It compounds serious problems created by the 1995 legislature when it replaced the workers' compensation fee schedule in effect at that time with one based on the rates of another sovereign. In adopting a schedule based on federal Medicare rates plus 10 percent, the prior fee schedule that had reasonably reflected Hawaii's high cost of living was slashed by 54 percent! Furthermore, tagging it to annual changes in federal Medicare rates has resulted in more decreases in spite of steady inflation. (This year alone, there has been a 4.4 percent decrease.) There still are people out there who think that if you reduce what you pay to providers, there will be a proportionate saving to the workers' comp system. It's bad enough that this premise was pushed in 1995, but to push it now is clearly delusional. Costs per injury have steadily risen since 1997. The human costs to all of this are becoming more and more clear now that 60 percent of doctors no longer will deal with workers' comp. As one of the few clinics still devoted to workers' comp injury care and as an IME doctor, I see this almost every day and sometimes several times a day. These patients often have been unable to find basic care or specialty consultation for their injuries, causing them to endure delayed recovery and financial hardship. The physical and psychological damage this can cause can be devastating to the patients and their families."

"There's not much happening right now with the workers' comp," says Dr. Frank Izuta, director of occupational medicine at REHAB (Rehabilitation Hospital of the



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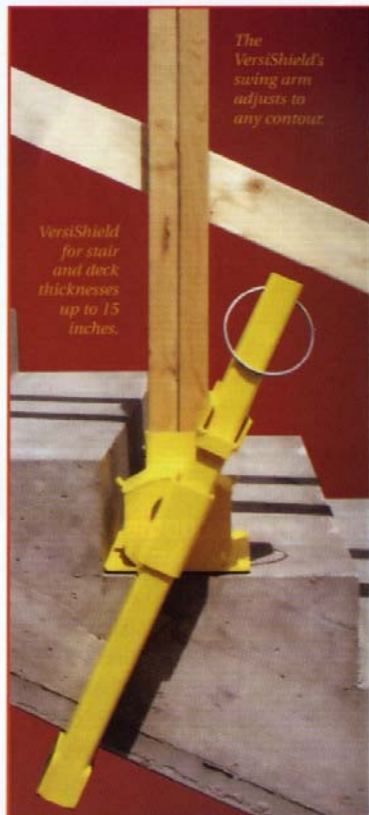


Pacific). "There was a great deal of outcry from physicians regarding The Work Loss Data Institute's Official Disability Guidelines (ODG) that last year's reform bill wanted to adopt. The guidelines create a problem for those wanting to do workers' comp treatment. They would have to buy these guidelines, renew them — it could add up to a huge cost. That was part of the problem. There also would be a lot more paperwork. Reimbursement rates are not the major problem. It has more to do with having to justify the treatment physicians might want to have done, getting approval from the insurer; it would be very time-consuming."

Suzanne Fields, sales manager for both the Kaiser Foundation Health Systems and Kaiser-on-the-job, says things are just where they were last year and she really doesn't know if much will progress this year (a comment we have heard from many of our interviewees, since, they point



Dr. Frank Izuta, director of occupational medicine at REHAB, goes over an X-ray with one of his patients.



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out, it's an election year.) But she did fill us in on what Kaiser currently is doing in occupational health and safety. "We do more than just work comp injury care," she says. "We also do work specific physicals (post offer physicals) and we are seeing more employers doing these physicals which are measured against specific job descriptions detailing essential functions of a specific job. Typically included are the capacity to lift, push, pull and carry, as appropriate to the limits of the job description. This includes a physical capacity screening by a physical therapist (the physical exam is done by a physician.)

"Because more employers are requiring employment-related physicals to assess the employee's capacity to do the job before starting work, this year we created a team that just does these physicals." Fields also says she sees more involvement of top company people in health and safety programs. "Many companies now are hiring risk managers, although there may be a shortage in this area, too."

Bob Dove, president/CEO of HEMIC (Hawaii Employers' Mutual Insurance Company, Inc.), gives us an interesting take on the workers' comp issue. "It's really not as bad as some perceive," he says. "What was looked at as a problem with the workers' comp program really was just a market cycle." As evidence, he points out, "Over the last three years, there have been two modest cost decreases with a significant one this year. And since that is a primary component of the rate, individual companies should see a decrease in their workers' comp rates. For HEMIC, our average rate in 2006 is 10.3 percent lower than it was two years ago in 2004." Dove agrees with Izuta that medical reimbursement is only a small part of the issue. "Workers' comp treatment is very specialized, so doctors who don't do a lot of this work — with all its detailed, paperwork, etc., would rather do none." HEMIC does favor a measure of "targeted increases in the medical fee schedule," but not to the degree being advocated by some Hawaii physicians.

## The Industry Takes Charge

OK. So workers' comp is still a controversy, seen by many as a broken system that must be fixed and by a few as not quite as bad as put forth. Whether or not anything significant comes out of this legislative session remains to be seen. The industry, meanwhile, is moving ahead to improve its own health and safety picture in a number of proactive ways.

"There has been a major shift in how employers, managers, suppliers and other industry members look at safety," says James Decker, safety chair for the GCA (General Contractors Association of Hawaii). "They know it directly impacts the bottom line, but

and Safety Technician) and CHSP (Construction Health and Safety Technician) designations. We'd also like to do some "train the trainer" courses and we're working on other plans such as the AGC (Associated General Contractors of America) construction management course for superintendents, project managers and safety people. All of these efforts would help make the industry safety people more substantial, add more credibility to company safety programs." Decker emphasizes that the GCA also is working on increased neighbor island outreach, offering a workshop on each island, for both GCA and non-GCA industry members. Decker, division safety manager for Swinerton Builders, explains that the company has "a



Swinerton masons pour floor slabs at the Public Storage project.

even more importantly, it is the right thing to do for the health and welfare of the workers. Steve Brooks (of Hawaiian Dredging and former safety chair for the GCA) did an outstanding job as previous chair with both the industry and the community. For 2006, we would like to develop even more programs through the GCA, for example, more preparation courses for OHST (Occupational Health

very unique" program. "Our own safety technicians and professionals are more advisors, considered as line managers. They make corrections to the program directly. Our on-site safety technicians, whose function is to evaluate the company's program, are part of project management. And as an employee-owned company, we take the whole safety issue very seriously. We all have a vested interest."



**A Swinerton Builders crew prepares a wall for framing at the Public Storage project.**

Ernie Balatincz, safety chair for the ABC (Associated Builders and Contractors, Inc., Hawaii chapter) and president of Balatincz & Associates Safety Consultants, says, "The construction industry continues to make improvements in worker safety on jobsites through several means. One is increased training of employees. As an OSHA (Occupational Safety and Health Administration) instructor, I see an increase in the number of classes as well as an increase in attendance, not just by the companies' workers but by supervisors and managers. This helps with the second level which is increased awareness and worker involvement in company safety programs and this leads to the biggest challenge of all — changing the behavioral and work habits of the work force. Through continuing training and changing cultural behaviors and work habits, the state's construction sites have become some of the safest work environments in the country. However, we still have a long way to go in finding new ways of getting ALL companies to actively pursue (having) the safest work sites in the country. Since last year, I have had the privilege of working with some very good companies in increasing their safety programs. One is Niking Corporation. Over the past year Niking has won prestigious safety awards including ABC Step Awards for several projects as well

as the Pacific Region COE (Corps of Engineers) safety award. This kind of achievement can only come from 100 percent commitment and dedication, from the company president, Bob King, all the way down to the newest worker in the field. Niking's dedication and commitment to safety, in my opinion, has reached a world class level, raising the bar for other companies to follow." Balatincz reports that since last year, ABC has become a training center for the National Safety Council and along with other continuing classes, offers a trainer certification class for the First Aid/CPR AED (defibrillator equipment) program.

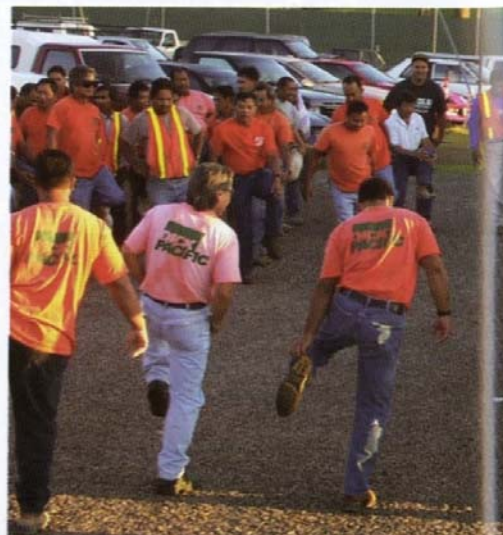
Mike Estes, ABC's chair of project management training, reports on a special Project Management Academy being offered from March 19 to 25. "It's a special one-week, eight-hour-a-day course, the first in this format. It will cover project technology and terminology, some safety training for project managers and record keeping, such as for HIOSH (Hawaii Occupational Safety and Health Division) purposes." Estes applies the health and safety principles he speaks of to his own business, T&M Construction Services Inc. "We have extensive weekly safety meetings as well as daily 'Toolbox Talks' on the jobsite."

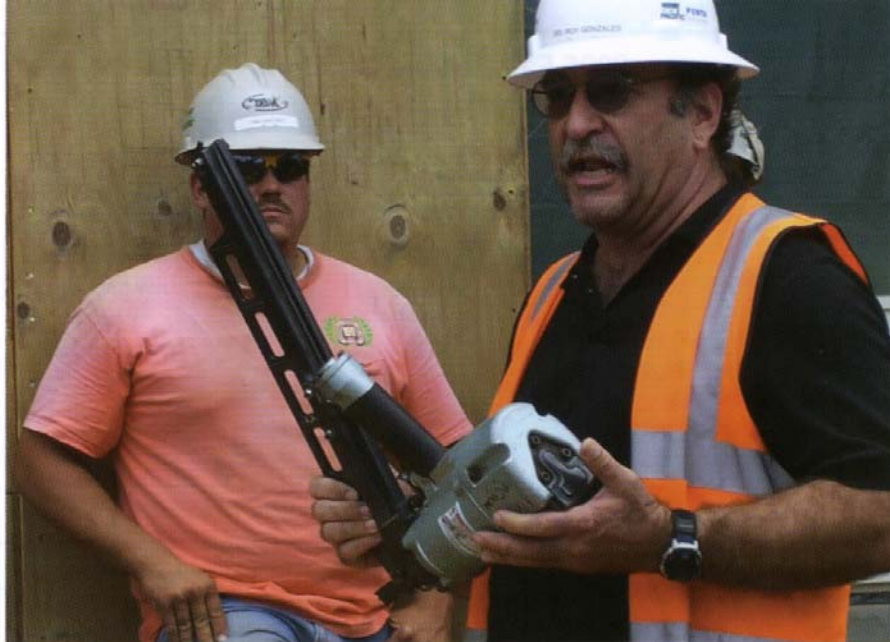
**Dick Pacific employees perform their "daily stretch" before the start of the workday.**

## More Preventative Medicine

Increased safety measures and awareness are mentioned by everyone, large general contractors to subs and suppliers. Joachim Diaz, regional safety manager for Dick Pacific Construction Co., Ltd., says, "As part of our own program, we do project safety assessments at every jobsite to review the program and measure the safety culture of each project." Diaz is involved in these assessments along with corporate safety staff "and maybe a few higher-ups." "A trend analysis of the assessment results shows us areas to focus on, such as greater employee participation in the program. We also want to initiate daily 'huddles' to encourage more input from employees — 'employee empowerment'. We want to emphasize the importance of our 'daily stretch' — exercises that help with hand-to-eye coordination, for example. And we are focusing on foreman development, helping them become better leaders and better safety leaders."

Michael Coyle, CSP, CHMM, who has two companies, Safety and Environmental Services and Safety and Environmental Training, says his largest client is the construction industry. His training services cover everything from HAZMAT to scaffold, fall protection, forklift, respiratory and competent person training and includes OSHA 10 and 30-hour courses. "A big part of what we do is helping construction companies get their paperwork in order so they are not focusing too much on this





**Del Roy Gonzales, a Dick Pacific superintendent, conducts a safety meeting at a project jobsite.**

area and 'missing the big picture.' The most important thing is working safely, not being bogged down in paperwork. We simplify it for them so they can concentrate on safety."

Aloha Painting was one of the companies receiving GCA Safety Awards in 2005 for "no lost time" and "best in category." Steve Takamori, company president, says, "We hold our own weekly safety meetings, 'tailgate topics'; the guys have to sign off on them. We also have safety field folders with safety information and project data." Drug testing? "It's done through the union." Takamori feels there is more exposure to "ice" and other drugs and consequently, more drug usage. But, he says safety awareness has increased. "We do a lot of track housing," he explains, (where the developer or general does 'wrap insurance' covering everyone on the job) "so we are all involved in the

safety of the project."

Quality General is another winner of GCA 2005 Safety Awards, also honored for "most improved in category." Ryan Wada, company president, tells us, "We have a safety coordinator on the payroll and we also utilize an outside consultant and an insurance agent specialist. We've always been aware of the importance of safety and we always had a great safety record, which also resulted in a good insurance rating. Then we got sort of complacent and had a few rough years and our insurance credit went down. But now it's improved again and things are going in the right direction."

Also aware of the importance of a good safety record is Jayar Construction, Inc., which won GCA Safety Awards in 2005 for zero accident rate, no lost time and best in category. Jayar President Rodney Nohara says, "We're not really doing anything special, just following OSHA requirements." That's not quite all. "We stress that safety is first," Nohara adds, "and if any employee sees anything unsafe in a project, he or she is urged to report it to the supervisor." The kamaaina company also was one of the first members of SHARP (the HIOSH Safety and Health Achievement Recognition Program) and was just recertified.

## Incentives and Innovations

According to Compliance Solution LLC, its president, Archie Yu, is the only consulting Certified Industrial Hygienist and Certified Safety Professional with HIOSH compliance training (Yu is a former HIOSH compliance officer) in the state. "We are able to look at a business operation from a compliance perspective," says Yu. "It is what makes us unique. Complying with HIOSH regulations is a MUST for companies in Hawaii. If a company can go above and beyond what HIOSH requires, that's wonderful. Management has begun to pay attention to safety as a profit center instead of a cost center. Managers have been cutting costs and are reluctant to raise prices. To keep costs down it is vital to invest in safety to reduce accidents. Managers realize accidents are very expensive with the cost not just in time alone. The average indemnity compensation for OSHA recordable hand/finger accidents is approximately \$3,856. Imagine if you bid a small job for \$100,000 with \$10,000 profit—you actually would lose money with three hand/finger injuries. Plus, the premium for work comp insurance can be prohibitive. Some local companies had to close down because they could not afford to buy the insurance."

Clifford Higa, sales manager and head instructor, has been with Safety Systems Hawaii for more than 30 years. What changes has he seen? "Companies are more safety conscious. They want to keep their workers safe and on the job. Good safety practices also reduce insurance costs and OSHA fines or shutdowns, which reflect on prices when bidding for jobs. We've seen an increase in attendance at our safety seminars. We've expanded the topics and the frequency." We asked whether Safety Systems is doing more traffic planning work with all of the current traffic flow-impacted projects. "We are very involved in all aspects of traffic control, from designing the



*"Our attitude is we may be strong competitors, but we are all on the same page together; one big safety family." James Decker, Swinerton Builders/ GCA Safety Chair*

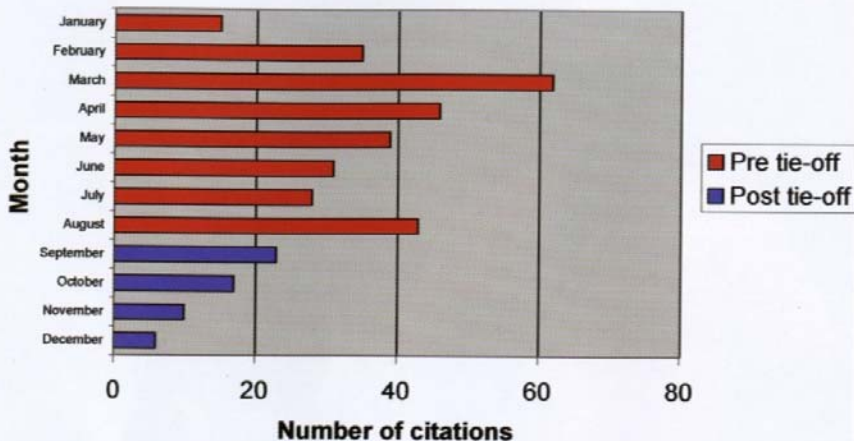
flow of traffic, preparing drawings for the permit process, barricading and coning streets, to providing flagmen and construction signs." Among recently introduced safety products is Relief Step which helps prevent suspension trauma. A new body harness, the Miller Revolution, and a new aluminum guardrail, the Whalen Jack, also are generating interest.

Richard van Bodegom, manager of Safway Steel Products, Inc. in Hawaii, remains enthused about a product introduced last year. "The yellow mesh offers great safety measures," he says, "including inhibiting dust and protecting employees from the elements. And aesthetically, it looks good." Safway offers hands-on training (scaffold products, swing stages, etc.) at its Honolulu and Kapolei locations, focusing on the different needs of both its industrial and commercial markets. "Requirements on the industrial side (refineries, power plants, wastewater facilities) are more stringent," says van Bodegom. "Our customers are much more safety aware now," he adds. "The generals know their increased knowledge helps in the use of the equipment, and that reduces liability on both sides." Current clients include Kawika's Painting, Williams and Associates, American Coating, Tesoro, Chevron, HECO, AES, and on the commercial side, Hokua, Koolani and Lanikea.

## CAK at Training Forefront

Always a leader in industry education, the Contractors Association of Kauai held 11 workshops in 2005, ranging from OSHA construction safety training and general industry safety training to workshops on fall protection, flagger training, fork lift operators certification training and recertification and more. In addition to the many who took part in the workshops, CAK members also attended an educational forum offered by CAK and King & Neel, Inc. on insurance issues. CAK's Karen Taketa says, "Contractors still need to be more safety akamai, for example, holding regular 'toolbox talks' and doing more drug testing."

## 2005 Fall Related Citations



## Spreading the Word

Fall protection has been a special focus of Nelson Befitel and the DLIR for several years. That concern was the driving force behind the very visible "Tie Off...It's Your Life" fall protection campaign initiated by the DLIR late last summer in partnership with contractors and labor organizations. From January 2002 to December 2004, Hawaii's construction industry suffered over 1,000 injuries due to falls, the leading cause of fatal injuries in the workplace nationwide. Has the campaign been successful? Take a look at the graph above, shared with us by the DLIR's Hardway.

"This initiative demonstrates," says Befitel, "that in Hawaii, labor and business, as well as government, can work together combining our resources and efforts to ensure our working families a safe and healthful workplace."

Gov. Lingle adds, "This outreach effort is vital in helping to build a culture of safety for our workers and their families. I congratulate the Department of Labor and Industrial Relations for its initiative to help our construction workers."

## SHARP Membership Doubles

The number of SHARP members has gone from 12 to 25 over the past year, with 29 additional companies in the process of obtaining membership. Current members are: KD Construction, Inc.; Nordic Construction, Ltd.; Parsons Group, Pacific Division (formerly RCI Construction); Jayar Construction, Inc.; Kimi Hotels, Inc. dba Maui Seaside Hotel; Kimi Hotels, Inc. dba Kauai Sands Hotel; Integrated Renal Care dba FMC-Dialysis Service of Pearlridge; Master Sheet Metal, Inc.; Aylward Enterprises Incorporated; Big Island Candies, Inc.; JAL Hawaii, Inc.; Swinerton Builders; Neil C. Nunokawa, DDS, Inc.; Mauna Kea Electric, Inc.; Bodell Construction Company; Kuwaye Trucking, Inc.; Hilo Mechanical, Inc.; Primatec Construction, Inc.; Metcalf Construction Company, Inc.; E Noa Corporation; Environmental Chemical Corporation; Castle & Cooke Homes Hawaii, Inc.; Kaikor Construction Associates, Inc.; Diagnostics Laboratory Services, Inc.; and Jack's Tours, Inc.

Companies having achieved VPP (Voluntary Protection Program) STAR status are Chevron Products, Hawaii Refinery; Frito-Lay, Inc.; and Dick Pacific Construction Co., Ltd. with Monsato Company in the pre-VPP stage.

## The Prognosis

What are the major health and safety challenges both today and tomorrow? "Drug usage, certainly," says GCA Safety Chair Decker.

"Ergonomic issues also are increasingly important with the heavy lifting and longer hours workers are putting in." Jayar's Nohara agrees. "Drug use is a main issue. We have had our own testing program for a dozen years or so. We test pre-hire and do random testing."

"Training workers and making sure they use the safety equipment provided, every time," says Safety Systems' Higa. "Some old-timers don't like to be told to wear new gear. Some new workers think they are invulnerable. But our advice is, remember that NO job is worth dying for...protect yourself."

"The only problem that still exists," says ABC's Balatincz, "is what Tracy Lawson (then with Dick Pacific) stated last year; there are too few skilled safety professionals to go around."

"Drug abuse is a major problem," says Compliance Solution's Yu. "Companies should implement a drug abuse policy, screen all job applicants and conduct random testing."

Due to the acute labor shortage, "Skilled workers are working more, getting fatigued," says HEMIC's Dove, "this leads to injuries, as does (the increase in) the less skilled and experienced workforce." He also recommends that employers do a thorough job in screening applicants and take advantage of the many opportunities for safety orientation and training. In an interesting sidelight he says, "One of the few positive aspects of a hard market cycle where workers' comp rates go up is that employers become more safety conscious."

Jennifer Shisedo, HIOSH administrator, explains her focus on improved working environments. "Our nation's workforce is getting older (especially true in Hawaii, which has a large senior population) and work places need to make provisions for this; improved lighting, for example, trying to eliminate background noise, moving tasks closer to the body. Of course," she points out, "these ergonomic improvements are good for younger workers as well." Shisedo says older workers do things more efficiently, are less prone to injuries. "They've learned to be careful. They also are more motivated, they care more."

"The labor shortage is a major issue," says BIA Government Relations Chair Short. "One answer is the planned Construction Training Center of the Pacific, a

partnership of the city and county and the BIA. Workers with little or no training impact themselves and their co-workers." Short says he is "keeping an eye on" a couple of proposed legislative bills introduced this session that want the handyman limit raised from the current \$1,500

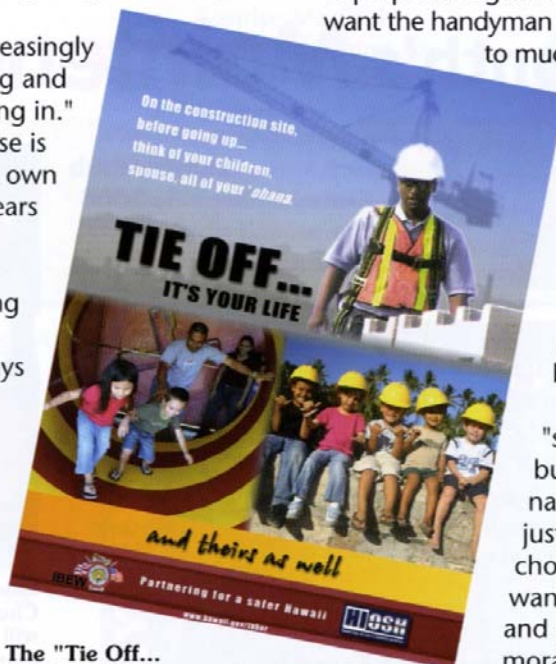
to much more. "They may not be licensed or trained," he points out. "This could cause major problems."

"We continue to see a reduction in injuries," says Befitel, "and more of a spirit of cooperation." Or as GCA Safety Chair Decker says, "Our attitude is that we may be strong competitors, but we are all on the same page together, one big safety family."


"A few years ago," says Shisedo, "safety was (being advanced as) a business issue. But that didn't resonate. Yes, companies can do what's just this side of legal, but they are choosing not to view it that way. They want to leave a legacy for their children and grandchildren of doing what is morally right."

A fitting close to our report.

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